

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DEIDRE GAWNE,
Plaintiff

V.

UNUMPROVIDENT CORPORATION,
PAUL REVERE LIFE INSURANCE
COMPANY, AND PINE MANOR COLLEGE
LONG TERM DISABILITY PLAN,
Defendant

CIVIL ACTION NO. 04-10860-WGY

JOINT STATEMENT REGARDING PRETRIAL MATTERS

Pursuant to Local Rule 16.1, the Defendants UnumProvident Corporation, Paul Revere Life Insurance Company and Pine Manor College Long Term Disability Plan (collectively referred to as “Defendants”), and the Plaintiff Deirdre Gawne hereby file this Joint Statement Regarding Pretrial Matters.

1. **Proposed Discovery Plan and Schedule for Motions**

The parties propose the schedule set forth below for consideration by the Court.

The parties do not wish to conduct phased discovery.

- a. Motions to join additional parties and to amend the pleadings must be filed by October 15, 2004.
- b. Insofar as this matter solely concerns the Court’s review of a claim for benefits under ERISA, Paul Revere will provide to Plaintiff on or before October 8, 2004, a copy of the Record for Judicial Review, unredacted and arranged in an orderly fashion.

- c. If the Plaintiff claims that the record is incomplete, she must notify the Defendants' counsel in writing of the same by October 22, 2004. If the Plaintiff does not provide such notice by October 22, 2004, then Defendant shall file with the Court each of the documents served on Plaintiff entitled as "Agreed to Record for Judicial Review." If the Plaintiff does provide such notice, then the parties must then confer in an attempt to ascertain an Agreed To Record for Judicial Review by November 22, 2004. If the parties come to an agreement, they will file an "Agreed To Record For Judicial Review" no later than December 3, 2002. If the parties cannot agree on the record for judicial review, then the parties shall file with the Court by December 3, 2002, a document entitled "Partial Record for Judicial Review" which contains only that portion of the record on which the parties agree. To the extent the parties disagree concerning the proper contents of the record for judicial review, the parties shall file memoranda concerning any additional material they seek to have added to the record for judicial review by December 31, 2004.
- d. If any party proposes that it is entitled to any discovery, to constitute or supplement the record for judicial review, it must file with the Court a submission showing cause for the party's entitlement to such discovery. The Court expects a reasonable degree of particularity as to what discovery is sought and why reason exists to expect that the product of discovery would be properly received in evidence and would be material to the disposition of this civil action. Any requests for discovery must be filed by December 31, 2004. Counsel to any party not proposing discovery shall have two weeks from service of a request for discovery to file an opposition thereto.

- e. If any party proposes that it is entitled to an evidentiary hearing necessary to supplement the record for judicial review, it must file with the Court a submission showing cause for its entitlement to such evidentiary hearing. The Court expects a reasonable degree of particularity as to what reason exists to expect that the product of the evidentiary hearing would be material to the disposition of this civil action. Any request for such evidentiary hearing must be filed by December 31, 2004. Counsel to any party not proposing the evidentiary hearing shall have two weeks from the service of a request for such a hearing to file an opposition thereto.
- f. Insofar as this matter involves the review of an administrative record whose content will be decided based on the methodology set forth herein, the parties are relieved on any mandatory disclosure requirements under Rule 26 of the Federal Rules of Civil Procedure and the Local Rules of the United States District Court for the District of Massachusetts.
- g. Summary Judgment Motions with accompanying memoranda must be filed by both parties by February 28, 2005, or two months after the Court rules upon the availability of discovery and the record for judicial review.
- h. Responses to Summary Judgment Motions must be filed within 14 days of service of the respective motion.

Respectfully submitted,

The Plaintiff,
Deirdre Gawne

By:

/s/ Mala M. Rafik (KHA)
Mala M. Rafik
BBO No. 638075
S. Stephen Rosenfeld & Rafik
BBO No. 428940
Rosenfeld & Rafik, P.C.
44 School Street, Suite 410
Boston, MA 02108
(617) 723-7470

Date: September 7, 2004

Respectfully submitted,

UnumProvident Corporation, Paul \
Revere Life Insurance Company &
Pine Manor College Long Term
Disability Plan,

By:

/s/ Kristina H. Allaire
Joan Vorster, Esq.
BBO No. 550375
Kristina Allaire
BBO #646001
Mirick, O'Connell, DeMallie &
Lougee, LLP
100 Front Street
Worcester, MA 01608-1477
(413) 791-8500